

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

LEXINGTON INSURANCE COMPANY and
NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH,

Plaintiffs,

v.

VIRGINIA SURETY COMPANY, INC.

Defendant.

Civil Action No. 04-11109 RGS

**VIRGINIA SURETY COMPANY, INC.'S OPPOSITION TO
PLAINTIFFS' MOTION FOR LEAVE TO FILE SURREPLY**

Defendant Virginia Surety Company opposes Plaintiffs' Motion for Leave to File Surreply because the proposed surreply is unnecessary and an unwarranted attempt to have the last word. The parties have now exchanged cross-motions for summary judgment, together with oppositions and replies – six briefs in all. Briefing on summary judgment must end at some point; after three rounds of briefing, that point has been reached. AIG's request to add a seventh brief is unwarranted; if AIG believes that there are issues left to address in the wake of the parties reply briefs, it may do so at oral argument.

Nonetheless, because AIG's proposed surreply – if allowed – is incorrect on the facts and the record, if the Court permits AIG to file this seventh brief, VSC respectfully requests the opportunity to file a response of no more than three pages.

CONCLUSION

For the foregoing reasons, AIG's Motion For Leave To File Surreply should be denied.

Respectfully submitted,

VIRGINIA SURETY CO., INC.,

By its attorneys,

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Dated: December 11, 2006

Certificate of Service

I, John M. Stephan, Esq. hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on December 11, 2006.

/s/ John M. Stephan

Dated: December 11, 2006